students who are now in Class A medical schools. What was stated in last month's editorial and other comment on that problem still applies, and will apply until proper action is taken. If provision for such deferments is not made, then, in due course, the military and civilian authorities may find events and needs crowding in on them so rapidly that it will be impossible to rectify the error in judgment in not granting these much-indicated exemptions.

* * *

Appropriations for Researches.—With all the millions of dollars being expended on this, that, or other research regarding material accessories of war implements, it seems impossible for members of the medical profession to understand why ways and means for the conservation of human health and life should be so constantly ignored, and particularly so since, in case the country was involved in war, the lack of adequately trained and qualified medical personnel would mean the unnecessary death of hundreds or thousands of citizens belonging to military and civilian groups.

Some months ago, in an address before a component county society of California, a qualified medical officer in the Aviation Service stated that most of the disasters in aviation were due, not to defects in the airships or material equipment, but to deficiencies of the pilots (human equipment). In fact, if reports be true, more than 90 per cent of the accidents with airships are due to deficiencies of the human elements.

It is strange, therefore, to note the appropriation of hundreds of thousands of dollars for research studies and experiments, designed to improve the construction and capacity of airships, and to compare the same with the few thousands set aside to carry on studies concerning the pilots, human beings, who are called on for work under atmospheric and other conditions where accurate and reliable knowledge is greatly needed.

* * *

How Physicians and Hospitals May Inform Legislators.—A thought that comes in connection with the above is thus:

That every physician and every hospital, or other public health agency, could be of real service in promoting a betterment of the deficiencies concerning which comment has been made, by writing to the United States Senators and Representatives from California in relation to these needs.*

The letters could be made to have a special value if they mentioned, by name, specific hospitals in California wherein service to the public would suffer if an adequate number of interns and residents is not maintained. Attention could be called, also, to the needs of the four Class A medical schools of California and the special importance of maintaining the number of medical graduates at existing figures, if medical service of proper quality is to be rendered in the days ahead—to soldiers, sailors, and citizens in essential industries, as well as to members of the civilian group. Why not write such a letter? By so doing, you will be rendering a real service!

* For list of Congressmen, see page 284.

AMERICAN MEDICAL ASSOCIATION TRIAL: JUDGE'S CHARGE TO JURY

Jury's Findings.—On April 4, 1941, after twelve hours of deliberation, and concluding a trial of eight weeks' duration, a federal district court jury of the District of Columbia brought in a verdict of guilty against the American Medical Association and the Medical Society of the District of Columbia, on charges that these organizations had violated the Sherman Antitrust Law enacted by Congress in 1891. Eighteen individual defendants, including a number of officers of the two medical organizations, were acquitted. On what basis the jury found the societies guilty, and their human agents or representatives not guilty, is not known. Perhaps, because the wording of the Sherman Law, designed some fifty years ago to prevent "restraint of trade," is so loosely phrased and constructed that such a seeming contradiction is permissible.

The question of whether the practice of medicine is a "profession" or a "trade," was not passed on in the recent trial.

* * *

Significance of Justice Proctor's Charge to the Jury.—A press dispatch concerning the verdict appears in the press clipping department of this issue (page 294), and gives additional information. Of special interest is Federal Justice James M. Proctor's charge to the jury prior to that body's deliberations. The charge is printed in full in the *Journal of the American Medical Association,* April 12, 1941, page 1700.

Justice Proctor, in answer to requests by the attorneys of both the Government and the defendants, gave instructions to the jury on certain questions of law. Some of the instructions in relation to the status of medical societies and their authority in matters of membership and ethics are of special interest in view of the vast amount of misinformation so often circulated by forces antagonistic to organized and scientific medicine. For the convenience of readers, the following excerpts are given:

The defendants had the lawful right to combine and form corporations and associations for the improvement of the practice of their profession and to advance their interests. They had the right to make reasonable rules and regulations respecting their profession and to ascertain the qualifications and character of their members. They had the right to discipline members who failed to abide by the regulations or rules adopted by the associations in the formation thereof and to suspend or expel from membership any member who failed to abide by the rules and regulations. The fact that the defendants adopted such rules and regulations and disciplined members does not of itself constitute an unlawful combination in violation of the statute. They must have combined together with the intent to injure, obstruct or restrain trade, or they must have intended to do acts the necessary effect of which would be to injure, obstruct or restrain trade.

* * *

The individual defendants as physicians had a right to determine with what other physicians they would consult, and their refusal to consult with any particular physician is not of itself illegal.

* * *

Physicians have the right to select the hospital in which they choose to treat and operate on their patients; and the refusal of a physician to do business with any hospital because of the composition of its courtesy staff is not of itself illegal.

The defendants American Medical Association and Medical Society of the District of Columbia have the right to adopt rules for just and fair dealing among their members and the right of enforcement of those rules and regulations by such reasonable penalties as they may provide for violation thereof.

* * *

The defendants had the right to reach and attempt to reach their objective of advancing the interests of the medical profession by legitimate persuasion and reasoned argument, and to this end they had the right to tell their side of the story and to persuade others, including the Washington hospitals, other physicians, members of Group Health Association, Inc., and the public to utilize and use the defendants' method of practicing medicine, and to use peaceful persuasion, publicity, articles in the press, in publications of defendants, including *The Journal of the American Medical Association,* and all lawful propaganda to have their methods of practicing medicine prevail over those of Group Health Association.

* * *

The defendants had the right to write letters or other statements among themselves or to other members of the profession or to the public generally, expressing disapproval of or opposition to Group Health Association and the form of medical service offered by it.

* * *

The defendants were entitled, through legitimate persuasion and reasoned argument, to endeavor to support and advance the interests and extension of that type of medical practice believed by the defendants to be in the public interest, without regard to whether such acts hindered Group Health Association, its doctors, members or operations, or any other type or method of medical practice. If they did not go further to conspire to restrain Group Health Association there would be no offense.

* * *

I charge you that the defendants have the lawful right, through action taken in their meetings and conferences, to formulate and adopt rules of medical ethics for the control and government of themselves and the members of their societies in the practice of their profession, and the support and maintenance of such principles of medical ethics by legitimate persuasion and reasoned argument or by enforcement of Society rules, laws and regulations, without more, would not constitute unreasonable restraints against Group Health Association, its doctors or members.

* * *

Any doctor who voluntarily joined the defendant medical societies was required to comply with the constitution, rules and regulations thereof. No doctor would have the right, as against the wishes of the particular society, to retain membership therein regardless of how valuable or advantageous such membership might be to him, and at the same time wilfully violate any provision of its constitution, rules or regulations.

If a doctor desires to retain membership he is bound to obey the constitution, rules and regulations, since membership therein is entirely voluntary; and if, as a result of his nonobservance, he suffers discipline and possible expulsion from the society, any injury, damage or restraint thus suffered by him or by any corporation by which he might have been employed would, without more, not constitute a violation of the statute.

* * *

The Washington hospitals are private institutions under private management and control, and the lawful authority to constitute the medical staffs of such hospitals is vested in the governing boards thereof. Hospitals have a lawful right to make such reasonable rules and regulations for the operation of the hospitals as to the authorities thereof may seem in their best interests. They are lawfully entitled to require obedience to such rules and regulations by all persons dealing with said hospitals, including doctors permitted by the hospitals to practice their profession therein.

The Washington hospitals had the lawful right, if they so desired, to adopt and enact a rule confining their medical staffs to members of the local medical societies, and any restraint resulting thereby to Group Health Association, its doctors, members or operations, would not in itself be a violation of the Sherman Act.

A member of the medical profession duly authorized by law to practice his profession in the District of Columbia is not by reason thereof entitled to practice in any of the private Washington hospitals. Permission to practice in such a hospital is not a right on the part of an applicant doctor but is only a privilege which can be extended or withheld from him at the will of, or in the discretion of, the particular hospital.

If the Washington hospitals or any of them believed that it was in the best interests of such hospital to adopt and enforce a rule confining appointments to the medical staff to members in good standing of local medical societies any such hospital had a lawful right to adopt and enforce such rule, and any resulting injury or restraint occasioned thereby to a particular doctor or other person would not be a violation of the statute.

* * *

The defendant American Medical Association had the lawful right, on request of a hospital, to inspect it for the purpose of approving or disapproving it for intern or resident training, and it had a lawful right to approve or disapprove such hospital based on the inspection so made.

The American Medical Association was lawfully entitled to present for the consideration of the hospitals inspected the so-called Mundt Resolution concerning the selection of medical staffs exclusively from the members of local medical societies, and such action on the part of the American Medical Association would not of itself constitute an act of coercion as charged in the indictment. . . .

* * *

A defendant does not become a party to a criminal conspiracy simply because he is a member of an association which might so conspire, or because he attends meetings of such organization where such conspiracy may be discussed, nor does he become a party to such conspiracy because he has knowledge of its existence or because he may even approve such conspiracy and its unlawful purpose. Before he can be found to be a member of a conspiracy it must appear that he knowingly and intentionally participated therein with the purpose and intention of aiding and furthering it; and you must find, before you can convict such defendant, that such intent existed beyond a reasonable doubt.

It is not unlawful to conspire and combine to effectuate a lawful purpose by lawful means. The defendants could lawfully combine to protect and support their medical organizations, their methods of professional practice, and the principles of medical ethics, by legitimate persuasion and reasoned argument or by any other lawful means. . . .

* * *

If it be true, as defendants claim, that the District Society, acting only to protect its organization, regulate fair dealing among its members and maintain and advance the standards of medical practice, adopted reasonable rules and measures to those ends, not calculated to restrain Group Health, there would be no guilt, though the indirect effect may have been to cause some restraint against Group Health. It would be justified if but an incidental result of reasonable regulation of the membership and affairs of the organization, for the statute comprehends only such restraints as do directly and unreasonably affect freedom of competition in the trades and professions.

* * *

In joining the District Society members assumed the duty of compliance with laws and regulations thereof. The right to practice medicine gave a doctor no right to be a member of the Society. Discipline and control of members of a society, within reasonable bounds, are essential. When applied in good faith, under fair rules, without ulterior purpose to injure the business of a member or others, there is no wrong. However, such rules and regulatory actions cannot be justified where the real purpose, or the natural results, are to interfere with free competition. . . .

* * *

The hospitals had the lawful right to prescribe rules and regulations governing the use of their facilities by doctors

and patients. In their boards was vested the authority to decide what physicians would be allowed the privileges. A doctor had no right to demand them. To grant or refuse the same rested solely with the hospital. Therefore, if denial of privileges to Doctor Selders, or other members of the Group Health staff, represented the voluntary decision of the boards, no question would arise as to the legality of their acts. However, if refusal was arbitrary and to serve a criminal conspiracy against Group Health or their doctors, it would violate the statute. . . .

NATUROPATHIC LICENSURE

Two Naturopathic Statutes Before the Legislature.—In the list of proposed laws having public health implications, and submitted to the California Legislature now in session, are two companion bills: A. B. 1301 (Assemblymen Richie, Pelletier, and Kilpatrick) and S. B. 977 (Senator Swan), which would create a State Board of Naturopathic Examiners.

These proposed statutes, intended to give California an additional sectarian board of examiners, are of particular interest for a number of reasons.

* * *

Naturopathic Referendum-Initiative of 1939 That Failed.—For those who are unaware of the fact, it can be stated that during the latter half of 1939 a naturopathic group engaged actively in an effort to secure a sufficient number of signatures of citizens to an initiative petition (referendum-initiative), designed to make it mandatory upon the Legislature now in session either to enact the proposed act to establish a board of naturopathic examiners, or at the next state election to refer the proposed statute to the electorate, as submitted, with or without an alternative act drafted by the Legislature.

The naturopathic group is said to have spent some $14,000 in this effort, which failed to secure the approval by the Secretary of State because it did not contain a sufficient number of valid signatures of voters.

* * *

Naturopathic Group Turns Again to the Legislature.—Not disheartened, and as in the last several legislative sessions, the sponsors of the measure next turned to the fifty-fourth biennial meeting of the California Legislature, now in session, and submitted in the Assembly and Senate two companion bills (A. B. 1301 and S. B. 977), either of which, if enacted into law, would bring into being a fourth healing-art board of sectarian type for California.

Since it is important for members of the medical profession to appreciate the scope of the endeavors referred to, and because of the important public health and medical standards principles involved, space is given to the informative data, which follows.

* * *

Titles of Assembly Bill 1301 and Senate Bill 977.—The title of Assembly Bill 1301 reads:

An act to regulate the practice of naturopathy, to establish a State Board of Naturopathic Examiners, and to define its powers and duties, to license schools of naturopathy, providing for the revocation and suspension of such licenses, and establishing a special fund for the administration thereof.

The title of Senate Bill 977:

An act to regulate the practice of naturopathy. Defines naturopathy. Creates Board of Naturopathic Examiners, prescribing its qualifications, powers, duties, and compensation. Board empowered to examine applicants, issue, deny, suspend, and revoke licenses to practice naturopathy; investigate and inspect institutions teaching naturopathy and issue or deny certificates of approval thereto. Prescribes educational and other qualifications of licentiates, grounds for denial, suspension and revocation of licenses. Accords licentiates, within scope of license, same rights granted physicians under public health laws. Specifies unlawful acts, prescribing penalties and disposition of moneys received. Prescribes rights and duties of naturopathic colleges. Defines terms used in act. Repeals conflicting laws.

* * *

Illuminating Article in Journal of the American Medical Association.—Turning now to an article in the *Journal of the American Medical Association,* April 12, 1941, page 1907, by J. W. Holloway, Jr., Esq., attention is called to efforts made by naturopaths in former years which only older members of the profession may remember.

In 1904, the California Legislature enacted a law which made it mandatory upon the then Board of Medical Examiners of the State of California (when California had only one healing-art board—a conjoint board) to issue licenses to practice naturopathy to all persons who would present to it a certain certificate that had been issued by "The Board of Examiners of the Naturopathic Physicians of California." Within six months after the passage of the act, in 1904, the records indicate that a total of about 103 persons were thus certified to practice naturopathy in California.

It is said that the corporation bearing the above name is still in existence, but certificates issued subsequent to the time-period noted are not valid as regards licensure to practice naturopathy in California.

Such is the history of the "appeasement" endeavor in 1904, publicity of which in that, and for several years thereafter, gave unhappy hours to more than one leader in the profession who thought it was better thus to placate a group of sectarian practitioners than to give vigorous opposition. Thus do we learn.

* * *

Naturopathic Initiated-Statute of 1934.—In 1934, the naturopathic group placed a straight initiative (so-called initiated-statute) on the state ballot, but this went down to defeat by a vote of 1,115,000 to 492,000.

The 1939 attempt to secure a legislative initiative (so-called referendum-initiative) has already been referred to.

* * *

Proposed Powers of Existing "Naturopathic Association of California," in Assembly Bill 1301 and Senate Bill 977.—Before leaving the subject, and as a matter of record and for comparison, it may be of interest to note the phraseology used in the provision for automatically granting naturopathic licenses to persons possessing membership certificates from certain "naturopathic associations":

1. In 1904, the certifications were granted by the "State Board of Examiners of the Naturopathic Physicians of California";